IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 28TH MARCH 2007 / 7TH CHAITHRA 1929

OP.No. 19244 of 2002(N)

PETITIONER:

M/S. M.D.GEORGE & COMPNAY,
VADAVUKODE, PUTHENCRUZ, KOLENCHERRY,
REPRESENTED BY ITS PARTNER SRI.K.J.PAULOSE.

BY ADV. SRI.V.B.JINNAH

RESPONDENTS:
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1. THE KERALA STATE ELECTRICITY BOARD,
THIRUVANANTHAPURAM, REPRESENTED BY ITS SECRETARY.

2. THE ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL MAJOR SECTION, KERALA STATE ELECTRICITY
BOARD, KOLENCHERRY.

3. STATE OF KERALA, REPRESENTED BY
THE CHIEF ELECTRICAL INSPECTOR TO THE GOVERNMENT,
OFFICE OF THE ELECTRICAL INSPECTORATE,
THIRUVANANTHAPURAM.

BY ADV. SRI.P.SANTHALINGAM, SC, KSEB
SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 28/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.No. 19244/2002

ORDER ON CMP 32944/2002 IN O.P.No. 19244/2002

DISMISSED.

28/03/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 TO P(f) : COPY OF THE INVOICES ISSUED BY 2ND RESPONDENT FROM JANUARY 2000 TO JULY 2000.

P2 & P2 (a) : COPY OF ORDER DATED 29/5/2000 AND INVOICE DATED 01/06/2000 ISSUED BY THE 2ND RESPONDENT.

P3 : COPY OF ORDER DATED 23/6/2000 PASSED IN CMP NO.28973/2000 IN O.P.No. 17573/2000 BY THIS HON'BLE HIGH COURT.

P4 & P4(a) : COPY OF ORDER DATED 05/8/2000 AND INVOICE DATED 05/8/2000 ISSUED BY THE 2ND RESPONDENT.

P5 : COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

P6 : COPY OF ORDER DATED 06/9/2000 IN CMP NO.43904/2000 IN O.P.No. 26139/2000 OF THIS HON'BLE COURT.

P7 : COPY OF SITE MAHAZAR PREPARED BY THE 2ND RESPONDENT ON 27/7/2000.

P8 : COPY OF STATEMENT PREPARED BY THE 2ND RESPONDENT.

P9 : COPY OF TEST REPORT NO.350/2001 DATED 23/3/2001 ISSUED BY THE 3RD RESPONDENT.

P10 : COPY OF THE ORDER PASSED BY THE 3RD RESPONDENT DATED 30/5/2002 (NO. B1-26692/2000/CEI.)

P11 TO P11(h) : COPY OF INVOICES ISSUED by the 3RD RESPONDENT FROM SEPTEMBER 2000 TO JUNE 2001.

P12 & P12(a) : COPY OF THE INVOICE DATED 27/6/2002 AND STATEMENT DATED 27/6/2002 ISSUED by the 2ND RESPONDENT.

RESPONDENT'S EXHIBITS

R2(a) : COPY OF THE INSPECTION REPORT NO.DBZ/RUE/SM/00-01/ DATED 27/7/2002 ISSUED BY THE ASST. ENGINEER, APTS UNIT, ERNAKULAM TO THE 2ND RESPONDENT.

// TRUE COPY //

jg PA TO JUDGE.

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 19244 of 2002 N

Dated, this the 29th day of March, 2007

J U D G M E N T

Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for KSEB.

2. Petitioner is contesting Ext.P1 order in appeal whereunder appellate authority has estimated the consumption for six months on account of fault in petitioner's electricity meter. Petitioner is a stone crushing unit. The functioning of which is quite uneven as is evident from Ext.P1 series of electricity bills produced by the petitioner. On inspection by Anti Power Theft Squad, one phase of the meter was not found to be working and consequently they estimated consumption and raised the bills, which ended in Ext.P1. Ext.P1 is under challenge in this OP. Since the power is distributed normally in an even manner among the three phases, average consumption in the two phases, which are working, are taken for estimation of consumption in the phase, which is faulty. This method was adopted by the appellate authority in estimating power consumption. However, learned counsel for the petitioner relied on Ext.P11 series of bills and contented that consumption recorded in

subsequent bills after replacement of meter are relevant materials which should have been taken into account by the appellate authority. However, learned Standing Counsel pointed out that bills for some months show that petitioner was virtually closed down and therefore all subsequent bills cannot be taken. It is seen from Ext.P11 series of bills that amount for some months go above Rs. 20,000/- and in some case reached up to Rs. 41,000/-. Therefore, if the bills for subsequent months when petitioner was in full swing operation was adopted then I am afraid the consequence will be more disastrous to the petitioner. In the circumstance even though in principle the argument is sound, I feel on account of judgment in the case petitioner should not suffer more than the consequence of order under challenge. I therefore uphold Ext.P10. Further petitioner is granted three equal monthly installments to clear the arrears, first of which will be paid on or before 30/04/2007 and balance on or before last day of two succeeding months.

This OP is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg